

## Attachment 1

*Bylaw No. 8408, 2023 with Table of Contents  
and other tracked changes*

**THE CORPORATION OF THE CITY OF NEW WESTMINSTER**

**BYLAW NO. 8408, 2023**

**THE CODE OF CONDUCT FOR COUNCIL MEMBERS**

A bylaw to regulate the conduct of Council Members

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**THE CORPORATION OF THE CITY OF NEW WESTMINSTER**

**BYLAW NO. 8408, 2023**

**THE CODE OF CONDUCT FOR COUNCIL MEMBERS**

A bylaw to regulate the conduct of Council Members.

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WHEREAS Council Members are keepers of the public trust and must uphold the highest standards of ethical behaviour in order to build and maintain the public's trust and confidence in local government;

AND WHEREAS it is to the benefit of the community for Council Members to conduct their business in accordance with the guiding principles of integrity, transparency, accountability, civility, respect, leadership and collaboration;

AND WHEREAS a Code of Conduct Bylaw expresses standards of conduct expected for Council Members;

THEREFORE BE IT RESOLVED that the Council of the Corporation of the City of New Westminister, in open meeting assembled, hereby ENACTS AS FOLLOWS:

**PART 1 – GENERAL**

**Citation**

- (1) This Bylaw may be cited as the "City of New Westminister Code of Conduct".

**Definitions**

- (2) In this Bylaw:

"**CAO**" means the Chief Administrative Officer for the City;

"**City**" means the Corporation of the City of New Westminister;

"**Committee Member**" means a person appointed to a committee, sub-committee, task force, commission, board, or other Council-established body under the *Community Charter* – Part 5, Division 4 – Committees, Commissions and Other Bodies, or the *Local Government Act*, but does not include a Council Member;

"**Confidential Information**" includes information that could reasonably harm the interests of individuals or organizations, including the City, if disclosed to persons who are not authorized to access the information, as well as information that may or must be

considered by Council in a closed meeting to which section 117 of the *Community Charter* applies, including:

- (a) decisions, resolutions or report contents forming part of the agenda for or from a closed meeting of Council until a Council decision has been made for the information to become public or otherwise released;
- (b) information about the acquisition, disposition or expropriation of land or improvements if disclosure could reasonably be expected to harm the interests of the city;
- (c) negotiations and related discussions respecting the proposed provision of an activity, work or facility that are at their preliminary stages if disclosure could reasonably be expected to harm the interests of the city;
- (d) advice that is subject to any privilege at law; and
- (e) Personal Information that is prohibited from disclosure under the provisions of FIPPA;

**“Council Member”** means the Mayor and Councillors for the City;

**“Director”** means the Chief Librarian, Chief of Police, Director of Climate Action, Planning and Development, Director of Engineering, Director of Finance, Director of Human Resources and IT, Director of Parks and Recreation, Fire Chief and General Manager of the Electric Utility for the City;

**“Ethics Commissioner”** means the person appointed by Council to fulfill the duties and responsibilities assigned to that position as set out in [the Council approved job description and](#) this Bylaw;

**“FIPPA”** means the *Freedom of Information and Protection of Privacy Act* (British Columbia);

**“Personal Information”** has the same meaning as set out in FIPPA;

**“Resident”** means any person who:

- (a) resides in the City;
- (b) would be eligible to vote in a municipal election in the City;
- (c) holds a valid and subsisting business licence issued by the City; or
- (d) is a Volunteer;

**“Staff”** means an officer or employee of the City, but does not include contractors; and

“**Volunteer**” means a person engaged by the City who, without compensation, offers their time, skills or services to the City.

### **Foundational Principles**

- (3) Council recognizes that responsible conduct is based on the foundational principles of integrity, accountability, leadership, respect, openness and collaboration:
- **Integrity**: Council Members are keepers of the public trust and must uphold the highest standards of ethical behaviour. Council Members are expected to act lawfully, be free from undue influence and make decisions that benefit the community.
  - **Accountability**: Council Members are trusted to act competently, diligently and responsibly. They must be held accountable for their actions and decisions.
  - **Leadership**: Council Members must demonstrate and promote the key principles of the Code of Conduct through their decisions, actions and behaviour. Their behaviour must build and inspire the public’s trust and confidence in the City.
  - **Respect**: Council Members must conduct public business efficiently, with decorum and with proper attention to the City’s diversity. They must treat each other and others with respect at all times.
  - **Openness**: Council Members must conduct their duties in an open and transparent manner, except where this conflicts with their duties to protect Confidential Information.
  - **Collaboration**: The social fabric of communities and the wellbeing of Residents depends on solid and sustainable community partnerships. Council Members shall seek to collaborate whenever possible and appropriate.

### **Purpose and Interpretation**

- (4) This Bylaw sets out the rules Council Members must follow in fulfilling their duties and responsibilities as elected officials, and the powers and procedures of the Ethics Commissioner in exercising oversight over Council Members.
- (5) The purpose of this Bylaw is not to stifle Council Members or to limit their ability to fully perform the governmental and advocacy functions that their position entails, with all the vigour, flair and freedom that is typical of a well-functioning democratic institution, but instead to guide Council Members to undertake those functions in a manner that accords with sound ethical principles.
- (6) The foundational principles set out above in section 3 are to inform the interpretation of the substantive provisions of this Policy and are not stand-alone bases for complaints.

- (7) The provisions of this Bylaw are to be interpreted broadly and in a manner that is consistent with the *Community Charter*.
- (8) Nothing in this Bylaw is intended to preclude Council Members, prior to the filing of a complaint, from speaking to each other in order to resolve matters which may otherwise be captured by this Bylaw.
- (9) As an expression of the standards of conduct for Council Members expected by the City, this Bylaw is intended to be self-enforcing. This Bylaw becomes most effective when Council Members are thoroughly familiar with it and embrace its provisions. For this reason, this Bylaw shall be provided as information to candidates for Council.

### **Application**

- (10) This Bylaw applies to all Council Members, inclusive of their actions in their capacity as members of City boards, committees, and other discretionary appointments.
- (11) Unless otherwise provided, this Bylaw does not apply to a Council Member's conduct in their personal life, ~~except with the exception of to the extent that such~~ egregious or criminal conduct that reasonably undermines public confidence in City governance.
- (12) For clarity, the provisions of this Bylaw apply without limitation to a Council Member's use of personal and professional social media accounts.
- (13) In the event of a conflict between this Bylaw and another City Bylaw or policy governing Council Member conduct, this Bylaw prevails.

### **Severability**

- (14) A decision by a court that any part of this Bylaw is illegal, void, or unenforceable severs that part from this Bylaw, and is not to affect the balance of this Bylaw.

## **PART 2 – COUNCIL MEMBER CONDUCT**

### **Comply with all Laws**

- (15) Council Members shall comply with all applicable federal, provincial and municipal laws in the performance of their public duties, including but not limited to:
  - (a) the *Local Government Act*;
  - (b) the *Community Charter*;
  - (c) FIPPA;
  - (d) the *Financial Disclosure Act*; and

- (e) all bylaws and policies of the City.

### **General Conduct**

(16) Council Members shall not:

- (a) engage with others, including Residents, Staff and other Council Members, in a manner that is abusive, bullying, intimidating or derogatory; or
- (b) use their office to attempt to gain personal or financial benefits for themselves, their family members, their friends or business interests.

### **Respect for Process**

(17) Council Members shall perform their duties in accordance with the policies, procedures and rules of order established by Council from time to time.

### **Interactions with Staff**

(18) (a) Council Members shall:

- i. exercise good judgement and treat Staff professionally; and
- ii. respect the role and responsibilities that each Staff member carries out in the performance of their duties.

(b) Council Members shall not:

- i. interfere with, hinder, or obstruct Staff in the exercise or performance of their roles, responsibilities, powers, duties, or functions in accordance with section 153 of the *Community Charter*, nor impair the ability of Staff to implement Council policy decisions;
- ii. request or require that Staff undertake personal or private work for or on behalf of a Council Member; or
- iii. request or require that Staff engage in political activities, or subject them to reprisal of any kind for refusing to engage in such activities.

(c) If a Council Member is unsure where to direct a question or inquiry regarding a departmental issue or other work-related item, or regarding a personal item that requires interactions with the regulatory functions of the City, they shall direct the question or inquiry to the CAO or to a Director or the Corporate Officer with a copy to the CAO.

### **Interactions with Staff**



~~(18) (a) Council Members shall:~~

~~i. exercise good judgement and treat Staff professionally;~~

~~(c) respect the role and responsibilities that each Staff member carries out in the performance of their duties; and~~

~~ii. direct all questions and inquiries regarding departmental issues and other work-related items, or personal items that require interactions with the regulatory functions of the City, to the CAO or to a Director or the Corporate Officer with a copy to the CAO.~~

~~(d) (b) Council Members shall not:~~

~~i. interfere with, hinder, or obstruct Staff in the exercise or performance of their roles, responsibilities, powers, duties, or functions in accordance with section 153 of the Community Charter, nor impair the ability of Staff to implement Council policy decisions;~~

~~ii. request or require that Staff undertake personal or private work for or on behalf of a Council Member; or~~

~~iii. request or require that Staff engage in political activities, or subject them to reprisal of any kind for refusing to engage in such activities.~~

### **Interactions with the Public and Media**

(19) Council Members shall not:

(a) misrepresent the decisions of the Council, even if they disagree with that decision; or

(b) make any disparaging comments about other Council Members, staff, or other City representatives.

(20) In public communications, Council Members shall accurately and fairly represent Council positions. When presenting their individual opinions and positions, Council Members shall explicitly state that it is their own personal view and that they do not represent Council or the City in those views. For a social media account, this may be accomplished through a statement on the Council Member's profile.

### **Conduct of Meetings**

(21) Council Members shall conduct themselves with decorum at meetings. This includes:

- (a) adequately preparing for meetings;
- (b) using respectful language and tone;
- (c) not using offensive gestures or signs;
- (d) listening courteously and attentively to all discussions before the body, and focusing on the business at hand;
- ~~(e) not using other forms of communication with Council Members during a meeting, such as text message or email;~~
- ~~(f)~~(e) not making comments not germane to the business of the body;
- ~~(g)~~(f) not interrupting other speakers, except to raise a point of order;
- ~~(h)~~(g) not leaving the meeting or making any disturbance while a vote is being taken and until a vote is declared;
- ~~(i)~~(h) complying with all conduct provisions set out in the City's Council Procedure Bylaw; and
- ~~(j)~~(i) not otherwise interfering with the orderly conduct of a meeting.

#### Handling of Confidential Information

- (22) Council Members shall keep information and records prohibited from release under section 117 of the *Community Charter* in strict confidence.
- (23) Without limiting the generality of section 22, Council Members shall not disclose:
  - (a) information or records concerning the property, personnel, legal affairs, or other information of the City distributed for the purposes of, or considered in, a closed Council meeting;
  - (b) resolutions or Staff report contents from a closed meeting of Council unless and until a Council decision has been made for the information to become public; or
  - (c) details on Council's closed meeting deliberations or how individual Council Members voted on a question in a closed meeting.
- (24) Council Members shall not use Confidential Information to advance, directly or indirectly, their own personal, financial or other private interests.

#### Conflict of Interest

- (25) Council Members shall not participate in discussion of a matter, or vote on a question in respect of that matter, if the Council Member has a conflict of interest.
- (26) In respect of each matter before Council, Council Members shall:
  - (a) assess whether they have a conflict of interest; and
  - (b) determine whether it is necessary to seek independent legal advice at their own cost, except where the CAO approves the cost, with respect to any situation that may result in a conflict of interest.
- (27) If a Council Member believes that they have a conflict of interest in respect of a matter in a Council or committee meeting, the Council Member shall:
  - (a) prior to the matter's consideration, notify the Mayor or Chair of the meeting that they have a conflict of interest, stating in general terms why they consider that to be the case;
  - (b) leave any such meeting if the matter is discussed and not return until the discussion has ended or voting has been concluded;
  - (c) refrain from discussing the matter with any other Council Member publicly or privately; and
  - (d) refrain from attempting in any way to influence the voting on any question in respect of the matter.

### **Gifts**

- (28) Council Members shall not accept a gift or personal benefit, except in accordance with section 105 of the *Community Charter*.
- (29) Council Members shall disclose a gift or personal benefit, received in accordance with section 105 of the *Community Charter*, as per section 106 of the *Community Charter*.

### **Use of Public Resources**

- (30) Council Members shall not use resources provided to them by the City, including but not limited to:
  - (a) Staff time;
  - (b) equipment;

- (c) technology;
- (d) supplies;
- (e) facilities; or
- (f) other property,

for private gain, personal purposes or election-related purposes.

- (31) For clarity, any events or activities that a Council Member undertakes on their own, even regarding City business, must be funded by the individual Council Member, unless the City or Ethics Commissioner ~~has determined~~ confirmed in writing that it is appropriate for the event or activity to be City sponsored, and the City has agreed to use public resources for that purpose pursuant to a City policy or Council decision.
- (32) Council Members shall not undertake municipal election campaign related activities at the City Hall or on other premises owned or operated by the City, unless such activities are organized or authorized by the City.

### **PART 3 – APPOINTMENT OF ETHICS COMMISSIONER**

- (33) Council must appoint an Ethics Commissioner to undertake the duties and responsibilities set out in this Bylaw.
- (34) The appointment of an Ethics Commissioner must be for a set period of two years. An Ethics Commissioner may be appointed for more than one term.
- (35) At the request of the Ethics Commissioner, Council may suspend the appointment for a mutually agreed period of time.
- (36) Council will not terminate an Ethics Commissioner except for cause.
- (37) The appointment of an Ethics Commissioner may only be made, suspended, or terminated by a 2/3 vote of all Council Members.

#### **Interim or Ad Hoc Appointment**

- (38) The CAO may appoint an ad hoc Ethics Commissioner in the following circumstances:
  - (a) if the City has not yet entered into a contract for the appointment of an Ethics Commissioner;

- (b) in the interim period between the expiry of the appointment of one Ethics Commissioner and the appointment of a new Ethics Commissioner; or
- (c) if the appointed Ethics Commissioner is unable or unwilling to act.

### **Duties and Responsibilities**

(39) The duties and responsibilities of the Ethics Commissioner are as follows:

- (a) provide advice and recommendations to a Council Member on questions of compliance with this Bylaw, where requested to do so by a Council Member;
- (b) provide advice and recommendations to a Council Member, regarding their compliance or disclosure obligations under a provincial statute, such as the *Financial Disclosure Act*, or other such statute that imposes an express compliance or disclosure obligation on the Council Member due to their position as an elected official, where requested to do so by a Council Member;
- (c) prepare written materials and content for the City's website for distribution to, and use by, the public, to aid in their understanding of the role of the Ethics Commissioner and the ethical obligations and responsibilities of Council Members under this Bylaw;
- (d) deliver educational programs regarding the role of the Ethics Commissioner and the ethical obligations and responsibilities of Council Members under this Bylaw;
- (e) adopt procedures, policies and protocols as necessary to aid in the resolution of complaints under this Bylaw;
- (f) assist with informal resolution of complaints;
- (g) receive and assess all complaints to determine if the complaint must be rejected, closed, resolved informally or investigated;
- (h) investigate and conduct inquiries into violations of this Bylaw;
- (i) report to Council as to whether a Council Member has breached this Bylaw;
- (j) make recommendations on an appropriate remedy if a Council Member has breached this Bylaw;
- (k) submit an annual budget for approval by Council; and

- (l) publish an annual report that includes a summary of the work of the Ethics Commissioner and any advice or recommendations that the Ethics Commissioner has to improve the text or operation of this Bylaw or any other policies, procedures, best practices or protocols governing Council Members' ethical conduct.
- (40) The Ethics Commissioner must perform the duties and responsibilities of their office in an impartial and independent manner.

#### **PART 4 – COMPLAINT AND RESOLUTION PROCEDURES**

##### **Preliminary Steps**

- (41) If a Council Member believes that they have observed another Council Member engaging in conduct that would breach this Bylaw, they must attempt to resolve the complaint directly with the other Council Member, if possible, prior to submitting a complaint under section 44.
- (42) If a Staff member or Committee Member believe that they have observed a Council Member engaging in conduct that would breach this Bylaw, and they wish to file a complaint, they must approach the Ethics Commissioner on a confidential basis and inform them of the alleged breach.
- (43) Upon receipt of the confidential information in section 42, the Ethics Commissioner may:
  - (a) determine that no breach has occurred and inform the Staff member or Committee Member of that determination;
  - (b) attempt to address the alleged breach with the Council Member and, if the circumstances warrant, the Staff or Committee Member; or
  - (c) request that the Staff or Committee Member file a complaint in accordance with sections 44 and 45.

##### **Complaint Procedure**

- (44) Subject to sections 41 to 43, a Council Member, Staff member, Committee Member or Resident may submit a complaint to the Ethics Commissioner.
- (45) A complaint must be in writing, must be submitted within 60 days of the alleged breach (or within 60 days of notification to the Ethics Commissioner under section 42, if applicable), and must include, with sufficient detail:
  - (a) the name of the complainant;
  - (b) the name of the respondent Council Member(s);

- (c) the conduct that the complainant alleges was in breach of this Bylaw;
  - (d) the date of the alleged conduct;
  - (e) the parts of the Bylaw the alleged conduct breached;
  - (f) the basis for the complainant's knowledge of the conduct; and
  - (g) if a complaint is submitted by a Council Member, whether the Council Member attempted to resolve the complaint informally under section 41.
- (46) A complaint may be accepted notwithstanding that it does not comply with all of the requirements of section 45, if the Ethics Commissioner determines that there has been substantial compliance or if the circumstances otherwise warrant acceptance.
- (47) A complaint submitted outside the time limits set out in section 45 must be rejected, except that the Ethics Commissioner may grant an extension of no more than 30 further days if the circumstances of the complaint are sufficiently serious.
- (48) In an election year, complaints submitted from the first day of the nomination period to the general voting day must be accepted and held in abeyance until after the new Council has taken office. At that time, complaints shall only proceed if they relate to a Council Member who was re-elected in that election year. For certainty, if the Council Member who is the subject of the complaint is not re-elected, the complaint must be dismissed and closed.

#### **Preliminary Assessment**

- (49) On receipt of a complaint, the Ethics Commissioner shall conduct a preliminary assessment. If the Ethics Commissioner determines that any of the following circumstances apply, then they must notify the complainant and respondent Council Member in writing that the complaint will be closed, stating the reasons for the closure:
- (a) the complaint is not with respect to a breach of this Bylaw;
  - (b) the complaint is frivolous, vexatious, or not made in good faith;
  - (c) the complaint would be more appropriately addressed through another process;
  - (d) the complaint was not in compliance with sections 44 and 45, and the respondent Council Member will be prejudiced by the complainant's failure to comply;
  - (e) the complainant wishes to withdraw the complaint, and it would be appropriate to allow the complaint to be withdrawn;

- (h) the complaint was submitted by a Council Member, and the Council Member ought to have first attempted to resolve the complaint informally under section 41;
  - (i) the complaint was submitted by a Staff or Committee Member, and the Staff or Committee Member ought to have first attempted to resolve the complaint informally under sections 42 and 43; or
  - (f) there are no possible grounds on which to conclude that a violation of this Bylaw has occurred.
- (50) In making a determination under section 49(f), the Ethics Commissioner may request further information from the complainant before determining whether or not there are no possible grounds on which to conclude that a violation of this Bylaw has occurred.

### **Criminal Conduct**

- (51) If, at any stage in the complaint procedure, the Ethics Commissioner determines that there are reasonable grounds to believe that there has been a contravention of the *Criminal Code*, or learns that there is an ongoing police investigation into the conduct that gave rise to the complaint, then they must refer the matter to the appropriate authorities and immediately suspend any investigation into the complaint until any resulting police investigation or charges have been finally disposed of, and shall report the suspension to Council, the complainant, and the respondent Council Member.
- (52) For certainty, a complaint must be suspended while the respondent Council Member is on a mandatory leave of absence under section 109.3(1) of the *Community Charter*, and may be re-commenced only once the mandatory leave of absence ends pursuant to section 109.3(1)(b) of the *Community Charter*.

### **Disqualification Proceedings**

- (53) If, at any stage in the complaint procedure, the Ethics Commissioner determines that:
- (a) the subject-matter of the complaint is being addressed in a disqualification proceeding commenced under section 111 of the *Community Charter*; or
  - (b) the complainant could commence a disqualification proceeding under section 111 of the *Community Charter* in relation to the matter that is the subject of the complaint

the complaint must immediately be suspended until the proceeding under subsection (a) has concluded or the time-period within which the complainant could commence a proceeding under subsection (b) has expired.



- (54) If the Ethics Commissioner has suspended a complaint under section 53, they may recommence the complaint upon the conclusion of a disqualification proceeding, or the time-period within which a disqualification proceeding could be filed has expired, if:
- (a) the Council Member who is subject to the complaint has not been disqualified from office by the British Columbia Supreme Court; and
  - (b) it would be in the public interest to do so.

### **Informal Resolution**

- (55) If the Ethics Commissioner determines that none of the circumstances in section 49 apply, they must then determine whether the complaint requires a formal investigation or whether the complaint may be resolved informally.
- (56) When determining whether the complaint may be resolved informally, the Ethics Commissioner:
- (a) may consider culturally appropriate or transformative, restorative or Indigenous justice approaches and may engage a third-party mediator or facilitator to assist in the informal resolution of the complaint; and
  - (b) shall give a strong preference to the informal resolution process wherever possible.
- (57) Where the Ethics Commissioner has determined that the complaint may be resolved informally, the Ethics Commissioner may, at their discretion, either attempt to resolve the complaint directly, or refer the complaint to:
- (a) the Mayor, if the complaint is made by a Council Member, unless the complaint is against the Mayor, in which case the complaint will be referred to the Acting Mayor; or
  - (b) the CAO, if the complaint is made by Staff, a Committee Member or Resident.
- (58) Where the Ethics Commissioner refers the complaint in accordance with section 57, the Mayor, the Acting Mayor or the CAO, as the case may be, may agree to assist in resolving the complaint directly, or may appoint a third party to assist in resolving the complaint at their discretion.
- (59) A third party assisting in the informal resolution of a complaint will assess the suitability of the complaint for settlement or resolution on an on-going basis and may decline to assist at any point.
- (60) The complainant, or the respondent Council Member, can decline to participate in an informal resolution at any time.

- (61) If a complaint is resolved informally, the person assisting in resolving the complaint must notify the Ethics Commissioner in writing of the terms of the resolution, upon receipt of which, the Ethics Commissioner must close the complaint.
- (62) If the third party assisting in resolving the complaint determines at any time that the complaint cannot be resolved informally, they must refer the complaint back to the Ethics Commissioner for a formal investigation.

### **Formal Resolution**

- (63) If the complaint is not rejected, closed or resolved informally within 45 days of the decision in section 55 to resolve informally, the Ethics Commissioner must proceed with a formal investigation.
- (64) The Ethics Commissioner shall deliver the complaint to the respondent Council Member, along with a request that the respondent Council Member provide a written response to the complaint, together with any submissions that the respondent Council Member chooses to make, within 10 days, subject to the Ethics Commissioner's discretion to reasonably extend the timeline.
- (65) The Ethics Commissioner may, at their discretion, deliver the respondent Council Member's written response and submissions to the complainant and request a reply in writing within 10 days, subject to the Ethics Commissioner's discretion to reasonably extend the timeline.
- (66) The Ethics Commissioner may:
  - (a) speak to anyone relevant to the complaint;
  - (b) review any documents relevant to the complaint, including closed meeting agendas and minutes; and
  - (c) access any record in the custody or control of the City, within the meaning of FIPPA, with the exception of records subject to solicitor-client privilege.
- (67) The Ethics Commissioner has discretion to conduct the investigation as they see fit, but must ensure that the investigation complies with the rules of procedural fairness and natural justice required in the circumstances of the complaint.

### **Adjudication and Reporting**

- (68) The Ethics Commissioner must conclude the investigation and make a determination regarding the alleged breach within 90 days of making the determination to proceed with a formal investigation, unless the Ethics Commissioner determines that doing so is not practicable, in which case the Ethics Commissioner must notify the complainant and respondent Council Member of the delay and provide a revised decision date. The revised

decision date may be extended by periods of up to 30 days at a time on provision of written notice to the complainant and respondent Council Member.

- (69) If, after reviewing all the material information, the Ethics Commissioner determines that a Council Member did not violate this Bylaw, then the Ethics Commissioner shall:
- (a) prepare a written investigation report providing reasons for their determination, which shall include a determination of whether the complaint was submitted frivolously, vexatiously or in bad faith;
  - (b) deliver a summary of the investigation report to the complainant; and
  - (c) deliver a copy of the investigation report to the respondent Council Member and Council.
- (70) If, after reviewing all the material information, the Ethics Commissioner determines that a Council Member did violate this Bylaw, then the Ethics Commissioner shall:
- (a) prepare a written investigation report providing reasons for their determination, which must include:
    - i. a summary of the factual findings of the Ethics Commissioner;
    - ii. an application of the Bylaw, and any other applicable law, to the facts;
    - iii. a recommendation of the appropriate sanction, subject to subsection (iv); and
    - iv. if applicable, a determination of whether the respondent Council Member took all reasonable steps to avoid the breach or whether the breach was trivial, inadvertent or due to an error in judgment made in good faith, in which case the Ethics Commissioner may recommend that no sanction be imposed;
  - (b) notify the complainant that the investigation is complete and inform them that the investigation report, or a summary thereof, will be subsequently released by Council in accordance with section 74;
  - (c) deliver a copy of the investigation report to the respondent Council Member; and
  - (d) 48 hours after the delivery of the investigation report to the respondent Council Member, deliver a copy of the investigation report to Council.

#### **Final Determination by Council**

- (71) Council must, within 45 days of the Ethics Commissioner's delivery of the investigation report, decide on the appropriate measures, if any, that are warranted by a breach of this Bylaw.

- (72) Prior to making any decision regarding the findings and recommendations set out in the investigation report, the respondent Council Member must be provided with an opportunity, in person and in writing, to comment to Council on the Ethics Commissioner's determinations and recommendations.
- (73) While an investigation report may be considered in a closed meeting, if the circumstances warrant, when Council deliberates and votes on the Ethics Commissioner's recommendation, it will generally do so in an open meeting.
- (74) Within 30 days of receiving the investigation report under section 69(c) or section 70(d), Council must, subject to the City's obligations under FIPPA, release to the public the investigation report, or a summary thereof, along with a summary of Council's decision if applicable.

### **Remedies**

- (75) Remedies that may be imposed by Council for a violation of this Bylaw include the following:
  - (a) a letter of reprimand from Council, addressed to the respondent Council Member;
  - (b) a request from the Council that the respondent Council Member issue a letter of apology;
  - (c) the publication of the letters contemplated in subsections (a) and (b), along with the respondent Council Member's response, if any;
  - (d) directions to the CAO regarding the method of providing documents that contain Confidential Information to the respondent Council Member;
  - (e) a recommendation that the respondent Council Member:
    - i. attend specific training, counselling or coaching related to the conduct at issue;
    - ii. complete a specified number of volunteer hours; or
    - iii. make a charitable donation of a specified or unspecified amount to a particular charity;
  - (f) limitations on access to certain City facilities;
  - (g) prohibition from representing the City at events and/or attending conferences;
  - (h) suspension or removal of the respondent Council Member from the Acting Mayor rotation or any committee appointments;

- (i) public censure of the respondent Council Member; or
  - (j) any other sanction recommended by the Ethics Commissioner, so long as that sanction is within the authority of Council.
- (76) Council must consider the following factors when determining whether to impose a sanction on a Council Member:
- (a) the degree and nature of the conduct;
  - (b) whether the contravention was a single or repeated act;
  - (c) whether the Council Member knowingly contravened the Code;
  - (d) whether the Council Member took steps to mitigate or remedy the contravention;
  - (e) the Council Member's history of other contraventions; and
  - (f) if applicable, the Ethics Commissioner's finding that the respondent Council Member took all reasonable steps to avoid the breach, or that the breach was trivial or done inadvertently or due to an error in judgment made in good faith.

#### **Confidentiality of Investigation**

- (77) The Ethics Commissioner must make all reasonable efforts to process and investigate complaints in a confidential manner.
- (78) The Ethics Commissioner and every person acting under the Ethics Commissioner's instructions must preserve confidentiality with respect to all matters that come into the Ethics Commissioner's knowledge in the course of any investigation or complaint, except as otherwise required by law.

#### **Obstruction**

- (79) No Council Member, Staff member, Committee Member or Resident will obstruct the Ethics Commissioner in relation to the administration of this Bylaw or the investigation of a complaint. Without limitation, the following shall constitute obstruction:
- (a) uttering of threats against any person involved in the complaint;
  - (b) retaliation of any kind against a Staff member;
  - (c) destruction of relevant records or documents; and
  - (d) refusal to cooperate with the Ethics Commissioner.

#### **Frivolous and Vexatious Complaints**

- (80) Any individual who is found to have obstructed the Ethics Commissioner, contrary to section 79, or who makes a complaint that is subsequently found to have been made in a deliberately frivolous, vexatious or malicious manner, or otherwise made in bad faith, will be subject to appropriate disciplinary action, which may include, but is not limited to:
- (a) in the case of Council Members, the sanctions and remedies described above in section 75;
  - (b) in the case of Committee Members, termination of the Committee Member's appointment;
  - (c) in the case of Staff, disciplinary actions in accordance with the City's Reporting Serious Misconduct Whistleblower Policy ~~or termination of employment for just cause, as applicable;~~ and
  - (e) in the case of any complainant, prohibition against filing a complaint under this Bylaw for a specified and reasonable period of time.

#### **Reimbursement of Costs**

- (81) A Council Member may make a request to Council for reimbursement of the costs of legal advice and representation in responding to the formal complaint process outlined in this Bylaw. If appropriate, after considering all of the circumstances, Council may resolve to reimburse part or all of the legal fees reasonably incurred by a Council Member, provided that all of the following are met:
- (a) section 740 of the *Local Government Act* authorizes the indemnification;
  - (b) the Council Member has not previously been found to have breached the Code, or if they have, that section 76(f) was applicable; and
  - (c) Council, in its sole discretion, has agreed to indemnify the Council Member for the costs of legal advice and representation in responding to a complaint made under this Bylaw.

#### **PART 5 – ENACTMENT**

- (82) This Bylaw comes into force and effect on adoption.

GIVEN FIRST READING THIS 26th day of June 2023.

GIVEN SECOND READING THIS \_\_\_\_\_ day of \_\_\_\_\_ 2023.

GIVEN THIRD READING THIS \_\_\_\_ day of \_\_\_\_\_ 2023.

ADOPTED THIS \_\_\_\_ day of \_\_\_\_\_ 2023.

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**Mayor Patrick Johnstone**

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**Peter DeJong, Corporate Officer**